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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

5 \* \* \*

6 MARYANNE DIGGS,

7 Plaintiff,

8 v.

9 BLOCH, et al.,

10 Defendants.

Case No. 3:15-CV-0510-MMD (VPC)

REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE

11 This Report and Recommendation is made to the Honorable Miranda M. Du, United States  
12 District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C.  
13 § 636(b)(1)(B) and the Local Rules of Practice, LR IB 1-4. For the reason set forth below, it is  
14 recommended that plaintiff's complaint be dismissed with prejudice.

15 On June 14, 2016, the court granted plaintiff's request to proceed *in forma pauperis* (ECF  
16 No. 3). Additionally, the court dismissed plaintiff's complaint without prejudice on various  
17 grounds including failure to state a viable civil rights claim. (*Id.*) Plaintiff was granted thirty (30)  
18 days within which to file an amended complaint that rectified the deficiencies listed in the  
19 screening order. (*Id.*) Plaintiff was cautioned her case would be dismissed if she failed to file an  
20 amended complaint within the time allotted. (*Id.*)

21 In September 2016, plaintiff filed her first amended complaint (ECF No. 8). On January  
22 3, 2017, the court again dismissed plaintiff's first amended complaint without prejudice and with  
23 leave to amend because plaintiff failed to plead a plausible right to relief. (ECF No. 10). Plaintiff  
24 was granted thirty (30) days within which to file an amended complaint that rectified the  
25 deficiencies listed in the screening order. (*Id.*) Plaintiff was cautioned her case would be dismissed  
26 with prejudice if she failed to file a second amended complaint with the time allotted. (*Id.*)

27 To date, plaintiff has failed to file a second amended complaint as ordered. The court notes  
28 that plaintiff called the Clerk's Office on February 22, 2017 to check on the status of this case and

1 was mailed a second courtesy copy of the screening order (ECF No. 10). However, to date she  
2 has failed to file a second amended complaint, and she has not requested additional time to do so.  
3 Therefore, this court recommends that plaintiff's complaint be **DISMISSED** with prejudice.

4 The parties are advised:

5 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of Practice,  
6 the parties may file specific written objections to this Report and Recommendation within fourteen  
7 days of receipt. These objections should be entitled "Objections to Magistrate Judge's Report and  
8 Recommendation" and should be accompanied by points and authorities for consideration by the  
9 District Court.

10 2. This Report and Recommendation is not an appealable order and any notice of appeal  
11 pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District Court's judgment.

12 **RECOMMENDATION**

13 IT IS THEREFORE RECOMMENDED that the District Court enter an order  
14 **DISMISSING** plaintiff's complaint with prejudice.

15 DATED: April 7, 2017.

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17 UNITED STATES MAGISTRATE JUDGE  
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